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COMPILATION OF CONFEREE'S DECISIONS ON H.R. 4961 THE "TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982"

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

COMPLETED

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I. INTRODUCTION

This document has been prepared to provide a preliminary summary of H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982, as agreed to by the conferees on August 15, 1982. It does not include a summary of the decisions of conferees appointed with respect to Title IV of the Senate Amendment (related to Airport and Airway System Development). This document is a compilation of the various press releases that have been issued periodically summarizing the conferees' decisions. As a summary document, it should not be relied upon as an official record of the conference. The actual conference report to accompany the bill is scheduled to be filed both in the House of Representatives and in the Senate on August 17, and constitutes the official reflection of the conference agreement.

SPENDING REDUCTIONS

MEDICARE

1. Medicare Payments Secondary for Older Workers Choosing to be Covered Under Group Health Plans -- The conferees agreed to the Senate provision which would require employers to offer employees aged 65 through 69 and their dependents the same health benefit plan offered to younger workers and would make medicare the secondary payor to those plans for such employees and their aged spouses. The decision whether to take this private coverage or select medicare as primary payor would be voluntary for the individual. Medicare payments would be reduced for any item or service furnished to an employee or spouse if the combined payment under medicare and the employer's health plan would otherwise exceed, for items or services reimbursed on a cost basis, their reasonable cost, or, for items or services reimbursed on a charge basis, the higher of medicare's reasonable charge or the amount allowable under the employer health benefits plan. In no case would medicare pay more than it would otherwise have paid. Employers with less than 20 employees would be exempt from the provision. The measure would become effective January 1, 1983.

2. Reimbursement for Inpatient Radiology and Pathology Services -- Under current law, medicare part B pays 100 percent of the reasonable charges of radiologists and pathologists who furnish radiology and pathology services to hospital inpatients and who accept assignment in all cases for these services.

The conferees agreed to the Senate provision which eliminates the special 100 percent reimbursement rate thereby providing that medicare will pay for such services on the same basis as other physicians' services, i.e., 80 percent of reasonable charges after the part B deductible has been met.

3. Elimination of the Inpatient Routine Nursing Salary Cost Differential -- The conferees agreed to the Senate provision which eliminates the routine nursing salary cost differential.

4. Reimbursement of Provider-Based Physicians -- The conferees agreed to a Senate provision, with minor modifications, which directs the Secretary of Health and Human Services to prescribe regulations which will distinguish between (1) professional medical services which are personally rendered to an individual patient, which contribute to the patient's diagnosis or treatment, and are reimbursable only under part B on a charge basis; and (2) professional medical services which are of benefit to patients generally and which can be reimbursed only on a reasonable cost basis. Reasonable cost reimbursement for provider-based services could not exceed a reasonable compensation equivalent established by the Secretary in regulations.

5. Part B Premium as Constant Percentage of Costs -- Individuals who elect to be covered under medicare part B are required to pay a monthly premium. The amount of the premium, which is set annually, is $12.20, effective July 1, 1982.

Currently, annual increases in the premium are limited to the percentage by which cash social security benefits have most recently been increased. The Senate provision would suspend this limitation and increase premiums on October 1, 1982, on July 1, 1983, and on July 1, 1984, to a level which will result in premium revenues for each period beginning on such date equal to 25 percent of program costs for aged beneficiaries. The normal part B premium calculation and limitation would resume on July 1, 1985.

The conferees agreed to the Senate provision with a modification under which no premium increase would occur before July 1, 1983. The measure will result in a projected monthly premium of $13.70 beginning July 1, 1983 (rather than the $13.10 projected under current law), and a monthly premium of $15.30 beginning July 1, 1984 (rather than $14.00 under current law).

6. Medicare Reimbursement to Hospitals -- The conferees agreed to hospital reimbursement provisions, as follows:

(a) Expansion of Section 223 Limits to Include Ancillary Costs -

(i) The current Section 223 limitation would be extended to include ancillary costs, applied on an average cost-per-case basis, and adjusted for case mix. In no case would reimbursement on a cost-per-case basis be reduced below the current allowable cost-per-case. The new limitation would be applicable to hospital cost reporting periods beginning on or after October 1, 1982. For the first year, the limitation would be set at 120 percent of the mean for hospitals of the same type; for the second year, the limitation would be 115 percent of the mean; and for the third and subsequent years, the limitation would be 110 percent of the mean.

(ii) Appropriate adjustments would be required for the special needs of psychiatric hospitals and hospitals serving a significantly disproportionate number of low-income or medicare patients. Rural hospitals with less than 50 beds would be excluded. Other appropriate exemptions, exceptions, and adjustments would be required as in the Senate provision.

(b) Three-year Rate of Increase Provision --
(i) A "target" reimbursement system would be established. The target rate would be the previous year's allowable operating costs per case (or, after the first year, the previous year's target amount) increased by the percentage increase in the hospital wage and price index plus one percentage point. A hospital with operating costs below the target rate would be paid its costs plus a bonus of 50 percent of the savings (not to exceed 5 percent of the target rate); a hospital with costs above the target rate would be allowed 25 percent of its costs in excess of the target for the first two years; none of the excess would be reimbursed in the third year. Provider payments under the target reimbursement system could not exceed the amount payable under the new Section 223 limitations.

(ii) The Secretary of HHS would be required to provide for appropriate exemptions, exceptions, and adjustments as in the Senate provision.

(iii) The target reimbursement system would be applicable to a hospital's first three cost-reporting periods beginning on or after October 1, 1982, but cease upon implementation of a prospective payment system.

(c) Non-Profit Hospitals That Drop Social Security Coverage for Employees -- The conference agreement also provides that in the case of a hospital that terminates social security coverage for its employees on or after August 16, 1982, the Secretary is directed to reduce medicare payments (for purposes of both section 223 limits and the rate of increase calculation) to the extent such payments would have been reduced had the hospital been subject to FICA taxes. If the hospital so requests, the Secretary would be authorized to offset against this reduction an amount equal to any pension and health costs the hospital demonstrates to the satisfaction of the Secretary that it has assumed in lieu of the FICA taxes it no longer pays with respect to its employees.

(d) Prospective Payments for Hospitals and Skilled Nursing Facilities -- The Secretary would be required to develop, in consultation with the Senate Committee on Finance and the House Committee on Ways and Means, medicare prospective reimbursement proposals for hospitals, skilled nursing facilities and, to the extent feasible, other providers, and to report to the committees on the proposals within five months of the date of enactment.

(e) Recognition of State Hospital Cost Control Systems -- The Secretary would be authorized to provide, at the request of a State, that medicare hospital payments could be made under a hospital reimbursement control system in the State if, and so long as: (1) the system applies to substantially all non-Federal hospitals and at least 75 percent of hospital inpatient revenues in the State; (2) the system treats payors, hospital employees, and patients equitably; and (3) the Secretary is satisfied that it will not result in greater medicare expenditures over a three-year period. In making this determination, the Secretary could recognize previous cost savings under the system. With respect to the authority provided to the Secretary under current law to establish and continue medicare demonstration projects, the Secretary would be prohibited from terminating a project for six months after he notifies the State of his decision to terminate.

7. Elimination of Private Room Subsidy -- The conferees agreed to the Senate provision. Medicare currently determines its payments to hospitals on the basis of the average costs for all its accommodations, including the additional costs of private rooms even though medicare generally is intended to cover only the costs of semi-private room accommodations. The provision requires the Secretary to publish regulations which would eliminate the subsidy for the extra cost of private rooms.

8. Single Reimbursement Limits for Skilled Nursing Facilities and Home Health Agencies -- The conferees agreed to the Senate provision which requires the Secretary to establish a single payment limit for hospital-based and freestanding skilled nursing facilities and a single payment limit for home health agencies on the basis of the cost experience of freestanding facilities.

9. Elimination of Duplicate Payments for Outpatient Services -- The conferees agreed to the Senate provision which requires the Secretary of Health and Human Services to issue regulations that would eliminate the duplicate payment of overhead expenses from the charges of a physician who performs services in a hospital's outpatient department.

10. Audit and Medical Claims Review -- The conferees agreed to the Senate provision which requires that the medicare contractor budgets for fiscal years 1983, 1984, and 1985 be supplemented by $45 million in each year to be spent for contractor audit and medical review activities.

11. Temporary Delay in Periodic Interim Payments -- The conferees agreed to the Senate provision. Under present law, hospitals may receive payments for services rendered to beneficiaries on the basis of periodic interim payments (PIP) that result in an average 3-week lag between the rendering of service and the receipt of payment.

The provision changes the periodic interim payment procedure by providing for a delay in the flow of PIP payments during September 1983. A similar deferral is authorized during September 1984.

12. Reimbursement of Assistants at Surgery -- The conferees agreed to the Senate provision, with minor modifications. The provision prohibits reasonable charge reimbursement for an assistant at surgery in hospitals where an approved training

program exists in the specialty, except under the following exceptional circumstances: (1) the service is complex and requires performance by a team of physicians; (2) the patient has multiple conditions which require the presence of and active care by a physician of another specialty during an operation; (3) exceptional medical circumstances; and (4) other exceptional circumstances as determined by the Secretary.

13. Prohibition of Payment for Ineffective Drugs -- The conferees agreed to the Senate provision implementing Section 2103 of the Omnibus Budget Reconciliation Act of 1981 which prohibits the use of Federal funds under medicare Part B and under medicaid to pay for certain less than effective drugs.

14. Health Maintenance Organizations and Other Competitive Medical Plans -- The conferees agreed to the Senate provision with the following changes:

(a) accept the Senate definition of an eligible plan, except that State licensed HMO's would not be included in the definition;

(b) accept a provision with regard to HMO and other plan qualification standards which requires the HMO to provide all medicare services, and requires the Secretary to approve a minimum benefit package;

(c) require the Secretary to establish guidelines for beneficiary information;

(d) accept the Senate provision with regard to enrollment mix with a modification eliminating the requirement that medicare enrollment in a plan not exceed 50 percent;

(e) accept the Senate provision with a modification requiring that participating HMO's or plans have at least 5,000 members (although the Secretary could waive the requirement for rural HMO's and plans) and requiring the Secretary to be satisfied that an HMO has the capacity to bear the risk of potential financial losses;

(f) accept a modification requiring enrollment of two medicare beneficiaries who are not members of an HMO in order to convert one medicare beneficiary;

(g) accept, with minor modification, the Senate provision relating to the calculation of the government contribution;

(h) accept the Senate provision relating to distribution of HMO and plan savings except (i) the requirement for approval of a broader minimum benefit package by a committee of members and (ii) the requirement that "rebates and dividends" be offered to beneficiaries.

15. Technical Corrections Relating to Medicare -- The conferees agreed to the Senate provision making miscellaneous technical corrections to the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

16. Hospice Care -- The conference agreement follows the Senate provision with the following changes:

(a) the benefit period would consist of two periods of 90 days and one period of 30 days;
(b) the reference to "speech therapy" would be changed to "speech-language pathology";
(c) the Senate provision would be clarified to authorize the Secreary to eliminate duplication where any provider requirements under this provision are identical to requirements

already met by the provider under other agreements with the Secretary.

(d) there would be no reimbursement under part B for an individual's attending physician who is employed by the hospice;

(e) counseling would be included as a core service;

(f) the Senate provision would be clarified to provide that non-core services could be provided, under arrangements, by others.

(g) a five-percent copayment on respite care services and a five-percent copayment on drugs covered are required under the provision.

The entire hospice provision expires on September 30, 1986.

17. Coverage of Extended Care Services Without Regard to 3-Day Prior Hospitalization Requirement -- The conferees agreed to a provision which authorizes the Secretary of HHS to eliminate the 3-day prior hospital stay requirement for skilled nursing facility coverage at such time as, through reimbursement changes or other adjustments, he determines that such action will not lead to an increase in program costs and that it will not alter the acute care nature of the benefit.

18. Medicare Coverage of, and Application of Hospital Insurance Tax to, Federal Employment -- The provision adopted by the conferees with respect to application of the hospital insurance tax to Federal employment appears under items relating to revenue.

19. Prohibiting Recognition of Payments Under Percentage Arrangements -- The conferees agreed that, with respect to all providers, no cost incurred under a contract would be considered reasonable if determined as a percentage (or other proportion) of the provider's reimbursement. The provision would not apply where costs incurred under a percentage arrangement were subject to the limitation on reimbursement of provider-based physicians established elsewhere in the conference agreement.

Further, the provision would not apply to a percentage contract that is reasonable and where such contract is a customary commercial business practice or provides incentives for the efficient and economical operation of the provider of services.

20. Interest Charges on Overpayments and Underpayments -- The conferees agreed to a modified proposal which would require interest payments with respect to medicare overpayments. Similarly, the medicare program would be required to pay providers interest on underpayments.

21. Prohibiting Payment for Hill-Burton Free Care -- The conferees agreed to a provision which requires the Secretary to provide, by regulation, that the cost incurred by a hospital or SNF in complying with its free care obligation under the Hill-Burton Act would not be considered reasonable for purposes of medicare reimbursement.

22. Prohibiting Payment for Anti-Unionization Activities -- The conferees agreed to a provision which prohibits medicare reimbursement for costs incurred for activities directly related to influencing employees respecting proposed unionization.

23. Eliminating "Lesser of Cost or Charges" Provision -- Under present law, payment for services furnished by providers is limited to the lower of the provider's customary charge or the reasonable cost of the service. The conference agreement would provide that the lesser of cost or charges provision of current law would not apply to a class of providers if the Secretary determines and certifies to Congress that elimination of the provision will not increase medicare payments to that class of providers.

24. Extending Medicare Proficiency Examination Authority -- The conferees agreed to a provision that would extend to September 30, 1983, the authority of the Secretary of HHS to conduct a program to determine the proficiency of health care personnel, including clinical lab personnel, who do not meet certain formal education requirements.

25. Retroactivity of Regulations Regarding Access to Books and Records -- Section 952 of P.L. 96-499, the Omnibus Budget Reconciliation Act of 1980, allows the Secretary of HHS or Comptroller General to have access to the books and records of subcontractors who supply hospitals or other providers with goods and services valued at $10,000 or more over a 12-month period. The provision requires that the Secretary prescribe in regulations the procedures and criteria to be used in obtaining access to the appropriate books, documents and records. The regulations have yet to be proposed.

The conferees agreed to a provision which would prohibit the regulations from being applied retroactively unless such regulations are issued in final form prior to January 1, 1983, preceded by a comment period of no less than 60 days.

26. Private Sector Utilization Review -- The conferees agreed to a statutory provision which would require the Secretary of HHS to undertake an initiative to improve medical review by intermediaries and carriers under medicare and to encourage similar review efforts by private insurers and other private entities. The initiative would include the development of specific standards for measuring the performance of intermediaries and carriers with respect to the identification and reduction of unnecessary utilization of health services.

27. Special Part B Enrollment Without Penalty -- The conferees agreed to a provision requiring a special open enrollment period under medicare during which time merchant seamen, whose free health care coverage under the Public Health Service Act was eliminated in 1981, could enroll without being required to pay a late penalty.

28. Establishment of Utilization and Quality Control Peer Review Program -- The conferees agreed, with modifications, to the Senate provision repealing the existing Professional Standards Review Organization (PSRO) program and requiring the Secretary of HHS to enter into performance contracts for utilization and quality control peer review.

The conference agreement follows the Senate provision requiring two-year contracts with peer review organizations composed of, or having available, a substantial number of licensed physicians with a modification which would:

(a) prohibit contracts with provider or provider-affiliated organizations; and

(b) provide that contract termination procedures would not apply to contract nonrenewals.

The conferees agreed to the Senate provision exempting review organizations from the Freedom of Information Act and establishing disclosure rules for such organizations with a modification which would:

(a) require the review organization to disclose to the appropriate State agency information identifying a particular practitioner or provider when, in the organization's judgment, there is reason to believe that a risk to the public health exists; and

(b) require the review organization to disclose information to a State or Federal fraud or abuse agency or an authorized State licensure or certification agency, at the request of

such agency on a case-by-case basis. This information could include institution or practitioner-specific data.

The conference agreement follows the Senate provision relating to the transition from the existing PSRO program with a modification which would prohibit the Secretary from terminating an operating PSRO, until such time as the Secretary has entered into a contract with a review organization under this provision.

The conferees agreed to the Senate provision requiring the Secretary to report to the Congress annually with a modification requiring the Secretary to provide information on the efficiency of payment methodologies used by the Secretary in contracting with review organizations.

29. Provisions Not Included in the Conference Agreement -- The conference agreement does not include the provisions relating to the one month delay in entitlement to medicare benefits; the five percent copayment for home health services; the increase in the part B deductible; the limitation on the physician fee economic index; the judicial review of decisions by the Provider Reimbursement Review Board; and the optional alternative medicare program (medicare vouchers).

MEDICAID

1. Medicaid Optional Copayments -- The conferees agreed to the Senate provision regarding copayments with the following modifications:

(a) all copayments would be nominal, except the "nominal" requirement could be waived by the Secretary in the case of nonemergency services in emergency rooms where certain conditions are met;

(b) States would be precluded from imposing copayments on:

(1) children under 18 (States at their option could exempt children up to 21 from copayments);

(2) services related to pregnancy (or, at State option, all services for pregnant women);

(3) patients in skilled nursing and intermediate care facilities;

(4) categorically needy persons enrolled in an HMO (and a State may elect to exclude all medicaid enrollees in an HMO from copayments)

(5) emergency services and family planning services.

2. Liens/Transfer of Assets -- The conferees agreed to a modification of the Senate provision, which provides that

(a) a State may not impose a lien on the home of an institutionalized medicaid recipient if there is a spouse, sibling, disabled or dependent child in the home;
(b) the lien could not be closed until the home is sold or the recipient dies, or while certain nondependent children remain in the home;
(c) a State may deny medicaid to persons who transfer a home for less than market value for a specified period.

The conferees also agreed to a provision to allow medicaid for persons who have burial funds which currently disqualify them from medicaid.

3. Medicaid Error Rate -- The conferees agreed to the Senate

provision to reduce matching to States with eligibility error rates in excess of three percent with the following modifications: overpayment errors due to resource tests would be treated in the same manner as overpayments due to incorrectly applied spend-down liability, and technical errors would be excluded.

4. Optional Medicaid Coverage of Disabled Children at Home -- The conferees agreed to a provision that would allow States to provide medicaid coverage at home to certain disabled children who are currently eligible only if institutionalized. The provision addresses cases where previously medicaid was not available if the child received care at home.

5. Medicaid Technical Amendments -- The conferees agreed to provisions making certain technical corrections to the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

6. Six-Month Moratorium on Nursing Home Regulations -- The conferees agreed to a provision that would prevent the regulations currently proposed by the Secretary regarding changes in survey and certification requirements for nursing homes from going into effect for six months.

7. Medicaid Funding in American Samoa -- The conferees agreed to a provision that would provide Federal funding for medicaid services in American Samoa.

Provisions Not Included In The Conference Agreement

The conferees did not agree to the following proposals: a provision to eliminate Federal matching for States paying the medicare part B premium for joint medicaid/medicare eligibles; a provision to allow States the option of continuing medicaid coverage for working families who are made ineligible for AFDC as a result of various earned income changes made by the Omnibus Budget Reconciliation Act of 1981; and a provision expanding States' options to qualify for a one-percent offset to last year's matching reductions by holding down increases in hospital costs.

AID TO FAMILIES WITH DEPENDENT CHILDREN

Rounding of AFDC Eligiblity and Benefit Amounts -- The conferees agreed to a Senate provision requiring States to round both their need standards and actual monthly benefit amounts to the lower whole dollar.

Prorate First Month's Benefit Based on Date of Application -- The conferees agreed to a Senate provision requiring States to pay benefits beginning no earlier than the date an application is filed. The benefit amount would be prorated based on the date of application.

Eliminate Military Service as Basis for AFDC Eligibility -- The conferees agreed to a Senate provision excluding absence based solely on military duty as a basis for need. However, if the parent has left the home for other reasons and is not providing support, the family may still be eligible for assistance. In this case, as provided in present law, the custodial parent would have to assign to the State any rights to child support which have accrued.

Job Search -- The conferees agreed to a House provision which permits States to require AFDC applicants and recipients to participate in a program of employment search beginning at the time of application. States exercising this option may limit participation to certain groups or classes of individuals who are required to register for WIN and the provision permits the State to shorten the duration of the sanction period. Transportation and other necessary costs incurred by participants must be paid and States would receive 50 percent Federal matching

funds for transportation and other services. An initial 8-week search period is allowed plus an additional 8-week period each year (which could add up to 16 weeks in the first year). States may not use the job search requirement as a reason for delaying eligibility determinations or making payments to those otherwise eligible.

Prorating Shelter and Utilities for AFDC Families Which Share Households -- The conferees agreed to a Senate provision allowing States to adjust the AFDC benefit when the AFDC family shares a household with other individuals. (States could not prorate in the case of an SSI recipient to whom a one-third benefit reduction applies.) States would be authorized to prorate, on a reasonable basis, the portion of the AFDC grant which the State designates for shelter and utilities. In States which elect this option, the State would be free to design the method of proration and the circumstances in which proration would be applied. The Secretary is authorized to prescribe broad guidelines for States which use this option.

Reduce Federal Match for Errors -- The conferees agreed to a modification of a Senate provision limiting the Federal match for erroneous benefit payments in the AFDC program to four percent in fiscal year 1983, and three percent in fiscal years 1984 and 1985. The imposition of fiscal sanctions would be applied on a retrospective basis. The Secretary of Health and Human Services may exercise waiver authority in cases he or she deems appropriate.

Retrospective Accounting Option -- The conferees agreed to a Senate provision allowing States the option of excluding from calculations of AFDC benefit amounts, any payments made solely from State funds that are designed to compensate for lost income in the period before the new benefit amount can be calculated.

WIN Demonstration Authority -- The conferees agreed to a Senate provision reopening the option for States to operate Work Incentive (WIN) Demonstration Programs. A provision of the 1981 Omnibus Budget Reconciliation Act authorized the States, at their option, to operate three-year work incentive demonstration programs. However, the State had to declare its intention to operate such a demonstration program within 60 days of enactment of the Omnibus Budget Reconciliation Act. The provision would reopen this option for the States for an additional two years. The requirements and regulations which applied to the earlier WIN Demonstration Program would apply to the extension.

Exclusion from Income of Certain State Payments -- The conferees agreed to a House provision which allows States to continue to exclude from countable income, both in the month of receipt and in future months, certain special payments made by a State to children in AFDC households.

Technical amendments to Title XX Social Services and Foster Care Program -- The conferees agreed to a House provision which makes technical corrections to social services and foster care provisions of Public Law 97-35.

The Conferees did not agree to the following proposals: sanction for termination or reduction of employment; the inclusion and exclusion of specified individuals' needs and income (counting eligibility of a parent, eligibility of a child, and counting income of unrelated persons); repeal of the emergency assistance program; and the treatment of earnings (earnings disregards, earnings from CETA youth jobs, gross income limitation, and the treatment of the earned income tax credit).

CHILD SUPPORT ENFORCEMENT

Collection of Administrative Costs for Non-AFDC Child Support Enforcement -- The conferees agreed to a Senate provision repealing the provisions enacted in P.L. 97-35 which would require States, in cases involving non-AFDC families, to charge any absent parent who is obligated to pay child support through the State Child Support Enforcement Agency a fee equal to 10 percent of the child support payment. The provision restores the law in effect prior to P.L. 97-35 which allows States to charge a reasonable fee for a non-AFDC collection and retain from the amount collected an amount equal to administrative costs not covered by the fee. The provision also retains, as a State option, the authority to collect from the parent who owed child or spousal support an amount to cover administrative costs, in addition to the child support payment.

Allotments for Child and Spousal Support by Members of the Armed Forces -- The conferees agreed to a Senate provision with a House modification which requires allotments from the pay and allowances of any member of the uniformed service, on active duty, when he or she fails to make child (or minor and spousal) support payments. The requirement would arise when the member failed to make support payments in an amount at least equivalent to the value of two months' worth of support. Provisions of the Consumer Credit Protection Act would apply so that the percentage of the servicemember's pay subject to allotment would be limited. In addition, the servicemember would be given an opportunity to consult a judge advocate or other law specialist.

Reimbursement of State Agency -- The conferees agreed to a Senate provision that would allow States to reimburse themselves from the amount of support collected for AFDC that was already paid in the final month of eligibility. Thus, the family would not receive double payment for the same month, first in the form of AFDC and then through receipt of the proceeds of the support collection.

Reduction in Federal Matching for State Child Support Costs -- The conferees agreed to a House provision which would reduce the Federal matching rate for State costs of operating the child support enforcement (CSE) program. Effective October 1, 1982, the rate will be reduced from 75 to 70 percent. Effective October 1, 1983, all matching will be eliminated for costs incurred by State and local courts in connection with the CSE program. In addition, the provision reduces State CSE incentive payments from 15 to 12 percent, effective October 1, 1983.

Technical Amendments to Child Support Enforcement Program -- The conferees agreed to a House provision which makes several technical corrections in the child support enforcement provisions contained in Public Law 97-35, including the correction of inaccurate references.

SUPPLEMENTAL SECURITY INCOME (SSI)

Prorate First Month's Benefit Based Upon Date of Application -- The conferees agreed to a Senate provision to prorate the first month's SSI benefit from the date of application or the date of eligibility, whichever is later.

The provision would also apply to the month in which an individual reapplies after a period of ineligibility.

Round SSI Eligibility and Benefit Amounts -- The conferees agreed to a Senate provision to round SSI monthly benefit and income eligibility amounts to the next lower dollar. Rounding would take place after the cost-of-living adjustment is made.

Coordination of SSI and OASDI Cost-of-Living Adjustment -- The conferees agreed to a Senate provision coordinating the cost-of-living increases in SSI and social security (OASDI). At the time the cost-of-living adjustment is made, the recipient's SSI benefit would be based on his or her social security payment in the same month, rather than in the second preceding month. In addition, whenever the Secretary determines that there is reliable information, on a recipient's income or resources in a given month, the SSI benefit would be based on that information. The Secretary would be required to prescribe by regulation the circumstances in which such information concerning a future event could be used to determine the monthly SSI benefit.

Phase Out of "Hold Harmless" Protection -- The conferees agreed to a House provision continuing the phase out of "hold harmless" payments as follows: hold harmless payments would be reduced to 40 percent of what they would otherwise be in 1983, to 20 percent in 1984, with no hold harmless payments made in 1985 and years thereafter.

Exclusion from Resources of Amounts Set Aside for Burial Expenses -- The conferees agreed to a House provision which would, for the purposes of determining SSI eligibility, exclude from countable resources burial spaces for an individual or members of his immediate family (subject to limits prescribed by the Secretary). Burial funds of up to $1,500 each for the individual and his or her spouse would also be excluded if specifically set aside for this purpose. Such funds would reduce the value of excludable life insurance policies. In addition, the $1,500 limit would be reduced by any amounts held by the individual in an irrevocable burial contract or other arrangements made to meet burial expenses.

The Secretary would be authorized to periodically raise the $1,500 limit as may be necessary.

SSI Pass-Through Requirement -- The conferees agreed to a House provision to allow a State to shift from the aggregate spending option to the State supplementation payment level option. A State could not decrease its State supplementation payment below the level in the previous December.

Treatment of Unnegotiated SSI Checks -- The conferees agreed to a House provision that clarifies the authority to credit States for unnegotiated SSI benefit checks which are "state supplementation only" checks.

Recovery of SSI Overpayments -- The conferees did not agree to a Senate provision to allow recovery of SSI overpayments from benefits payable under other programs administered by the Social Security Administration (Black Lung and OASDI benefits).

UNEMPLOYMENT COMPENSATION

1. Rounding of Unemployment Benefits -- The conferees agreed to a Senate provision under which the Federal 50 percent matching share of extended unemployment benefits would not be available on that part of extended unemployment benefit payments which result from a failure on the part of the State to have a benefit structure in which benefits are rounded down to the next lower dollar.

2. Reed Act Funds -- The conferees agreed to a House provision which extends for 10 years the authority for States to use Reed Act funds for administrative purposes. The provision also permits States that have used such funds to pay unemployment benefits to reestablish a Reed Act account.

3. Exclusion from FUTA of Wages Paid to Student Interns -- The conferees agreed to a House provision which exempts from FUTA tax any wages paid to a student enrolled full-time in a work-study or internship program, regardless of age,

for work that is an integral part of the student's academic program. In addition, the conferees agreed to exempt from FUTA, for tax year 1983 only, the wages paid by certain summer camps to employees who are full-time students.

4. Extension of Exclusion from FUTA of Wages Paid to Certain Alien Farmworkers -- The conferees agreed to a House provision which extends for two years, from January 1, 1982, to January 1, 1984, the provision of prior law that excluded wages paid to certain alien farmworkers from FUTA wages.

5. Unemployment Compensation (UC) Financing -- The conferees agreed to the Senate provisions which increase the Federal unemployment tax (FUTA) wage base from $6,000 to $7,000 and which increase the FUTA rate from 3.4 to 3.5 percent effective January 1, 1983. (Employers in States with approved State programs will continue to receive the 2.7 percent offset credit under current law, so that the standard net Federal tax would be 0.8 percent.) Effective January 1, 1985, the FUTA tax rate is increased to 6.2 percent (a permanent tax of 6.0 percent and a temporary extended benefit tax of 0.2 percent) with a credit of 5.4 percent. States that, under current State law, allow certain specified industries to pay a non-experience based State unemployment tax rate that is below 5.4 percent could provide for such industries to gradually reach the new 5.4 standard tax rate. Annual increases in the State unemployment tax rate for such industries could be limited to no less than 20 percent of the difference between the current rate paid by an employer and 5.4 percent.

The conferees also agreed to the following additional UC financing provisions which:

(a) allocate 60 percent of total FUTA revenues to the Employment Security Administration (ESAA) and 40 percent to the extended unemployment compensation (EUCA) accounts in the Federal Unemployment Trust Fund. Amounts allocated to EUCA which exceed the Federal share of extended benefit expenditures will be used to repay Federal general revenue advances. Upon repayment of the Federal general revenue advances to EUCA (and the elimination of the 0.2 percent temporary tax), 90 percent of FUTA revenues will be allocated to ESAA and 10 percent to EUCA, as under current law;

(b) permit States to make debt repayments out of their State trust fund accounts in lieu of further FUTA credit reductions provided the payments come from new funds generated through the State experience-rating system and/or benefit reductions;

(c) drop the present law additional credit reductions in the fifth year of delinquent State loans so that credit reductions continue at an additional 0.3 percent each year; and

(d) allow a State, under certain conditions, to reduce payments of interest on Federal unemployment loans to 25 percent of the amount due in any year, and thereby extend the payment of the total interest obligation over a four-year period. (Interest would be charged on any deferral amount.)

6. Treatment of Certain Employees of Institutions of Higher Education -- The conferees agreed to a House provision which allows States to deny unemployment compensation benefits to non-teaching, non-research and non-administrative employees of colleges and universities during periods between academic years or terms, if there is a reasonable assurance that the individual will be employed by the institution at the beginning of the forthcoming academic year or term.

7. Short-time Compensation -- The conferees agreed to a House provision which directs the Department of Labor to develop

model legislation that can be used by States that wish to establish short-time compensation (or "worksharing") programs. The Department of Labor is directed to evaluate the operation and impact of any such programs implemented by the states and report its findings to Congress no later than October 1, 1985.

The conferees did not agree to the following proposals: unemployment benefits for ex-servicemembers and the transfer of interest on State unemployment loans to the extended unemployment compensation account.

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III. REVENUE PROVISIONS

1. Individual Minimum Tax -- The conferees agreed, with several changes, to the Senate provisions which repeal the present add-on minimum tax and revise the present alternative minimum tax, effective for taxable years beginning after December 31, 1982. The conferees agreed to impose the tax at a flat rate of 20 percent on minimum taxable income in excess of $30,000 ($40,000 for joint returns). In addition to the tax preference items added by the Senate bill, the conferees agreed to include the bargain element of incentive stock options and to delete the present law preference on amortization of child care facilities. The conferees also clarified that the preference amount for the new expensing preferences is the excess over 10-year amortization, and agreed to allow taxpayers to elect this treatment for the regular tax. The conferees clarified the deduction for interest expenses to specify that interest incurred in limited partnerships and Subchapter S investments owned by a person who does not participate in management is to be treated as a below-the-line itemized deduction. The other provisions of the Senate bill were also approved.

2. Limitation on Casualty and Theft Loss Deduction -- The conferees agreed to the Senate provision which limits non-business casualty losses to the excess over 10 percent of adjusted gross income. As under present law, each casualty loss would be deductible only to the extent that it exceeds $100. This provision would apply to taxable years beginning after December 31, 1982.

Medical Expense Deduction -- The conferees agreed to modify the Senate provision relating to the itemized deduction for medical expenses by increasing the floor from 3 percent of adjusted gross income under present law to 5 percent (rather than the 7 percent floor in the Senate provision), effective for taxable years beginning after December 31, 1982. In addition, the conferees agreed to eliminate the separate floor of 1 percent of adjusted gross income for druys, effective for taxable years beginning after December 31, 1983, and at that time to redefine drugs eligible for the deduction to include only prescription drugs and insulin. The conferees also agreed to eliminate the present separate deduction for one-half of medical insurance premiums up to $150, effective for taxable years beginning after December 31, 1982.

3. Corporate Tax Preferences -- The conferees agreed with several modifications to the Senate provision which reduces certain corporate tax preferences by 15 percent, effective in general after December 31, 1982.

(a) Percentage depletion deductions in excess of basis for coal (including lignite) and iron ore would be reduced by 15 percent (effective after December 31, 1983).

(b) Deductions for reserves against bad debts would be reduced for certain financial institutions by 15 percent of the amount by which the otherwise allowable deduction exceeds the amount based on actual experience.

(c) For certain financial institutions, the otherwise allowable interest deduction incurred or continued to purchase tax-exempt obligations acquired after 1982 would be reduced by 15 percent.

(d) The income deferred by a domestic international sales corporation (DISC) would be reduced by 15 percent.

(e) The ordinary income resulting from a sale of real estate

would be increased by 15 percent of the additional amount which would be ordinary income if the property were subject to the recapture rules which apply to tangible personal property.

(f) Fifteen percent of the basis of pollution control facilities for which 5-year amortization is elected would be depreciated under the generally applicable rules.

(g) For integrated oil companies, 15 percent of intangible drilling cost otherwise eligible to be expensed would be capitalized and amortized over a 3-year period.

(h) Fifteen percent of the amount of mining exploration and development costs otherwise eligible to be expensed would be depreciated over 5 years.

(i) To eliminate adverse interactions with the add-on corporate minimum tax only 71.6 percent of the amounts otherwise subject to that tax would be treated as tax preference items.

4. Limitation on Investment Tax Credit to 85% of Tax Liability -Under present law, taxpayers may use the regular and rehabilitation investment tax credits against the first $25,000 of tax liability, plus 90 percent of tax liability in excess of $25,000. The conferees agreed to the Senate provision which reduces the present 90 percent limitation to 85 percent, effective for taxable years beginning after December 31, 1982.

Basis Adjustment for Investment Tax Credits -- The conferees agreed to the Senate provision which reduces the basis of assets by 50 percent of the amount of regular, energy and certified historic structure investment tax credits. For leased property where the lessee claims the investment tax credit, an income inclusion rule will be provided rather than a basis adjustment. In lieu of the basis adjustment, a taxpayer may elect an 8 percent regular investment tax credit (4 percent in the case of 3-year ACRS property). This provision generally applies to property placed in service after December 31, 1982, with a transitional exception for property (other than public utility property) placed in service before July 1, 1986, for which a contract was entered into after August 13, 1981, and which was binding on July 1, 1982, and at all times thereafter. Additional transitional rules are provided for certain integrated manufacturing facilities and historic rehabilitations.

5. Accelerated Depreciation in 1985 and 1986 -- The conferees agreed to the Senate provision which repeals the additional acceleration of depreciation scheduled for 1985 and 1986 under present law.

6. Construction Period Interest and Taxes -- The conferees agreed to the Senate provision which requires capitalization and amortization of interest and taxes attributable to the construction period of nonresidential real property for corporations. The provision does not apply to the Alaska Natural Gas Pipeline. The provision generally applies to interest and taxes paid or incurred in taxable years beginning after December 31, 1982, for construction begun after December 31, 1982. However, the provision will not apply to certain hotels, motels, hospitals and nursing homes, the construction of which begins before January 1, 1984, for which approval of a governmental unit had been sought in writing on or before July 1, 1982. In addition, a transitional rule is provided for certain integrated manufacturing facilities.

7. Leasing -- In general, the conferees agreed to a modified version of the Senate provisions repealing safe harbor leasing and relating to the rules for other lease arrangements ("finance leases").

(A) Safe Harbor Leasing

The safe harbor leasing provisions of the Economic Recovery Tax Act of 1981 would be repealed after December 31, 1983. For the period between July 1, 1982, and January 1, 1984, a modified version of safe harbor leasing would be in effect. These modifications include: (1) the investment tax credit would be spread evenly over a 5-year period; the half-basis adjustment would apply in the first year; (2) depreciation would be spread over the periods used for minimum tax purposes (5 years for 3-year ACRS property, 8 years for 5-year property, and 15 years for 10-year property) and a 150 percent declining balance switching to the straight-line method would be used; (3) the term of the lease would be limited to the greater of 120 percent of the present class life of the property or the recovery period of the safe-harbor property; (4) the interest rate used to calculate lessor obligations would be limited to the interest rate on tax deficiencies; (5) the amount of the lessee's property eligible for modified safe harbor treatment would be limited to 45 percent; (6) the amount of a lessor's tax liability that may be reduced through safe harbor leasing would be limited to 50 percent and no carrybacks would be allowed; (7) public utility property, property leased to certain formerly tax-exempt organizations, property for which rehabilitation tax credits are claimed, and property used by a foreign person (the income from the use of which is not subject to U.S. tax) would be ineligible for safe harbor leasing; (8) ferry boats used for mass transportation would be treated like mass transit commuting vehicles and hence would be eligible; (9) closely-held lessors would not be subject to the at-risk rules and (10) limitations on related party transactions and rules related to the calculation of percentage depletion would apply.

(B) Finance Leases

The conferees agreed to the following modifications of conventional leveraged leasing arrangements governed by Internal Revenue Service guidelines, effective January 1, 1984:

(2) A fixed price purchase option of at least 10 percent of original cost would be allowed. However, this provision would apply to leases entered into after July 1, 1982, for up to $150,000 per calendar year of a lessee's new farm equipment.

(3) A 3-month period after the date on which property is placed in service would be allowed to arrange lease transactions.

(4) Limited use property would be eligible.

(5) The following limitations would apply to finance leases covered by these liberalizations until 1985.

a. A lessee may lease 40 percent of otherwise eligible property.

b. The limitation on reductions of a lessor's tax liability would apply.

c. The five-year spread of the investment tax credit would apply.

d. An exception to (a)-(c) is provided for up to $150,000 per calendar year for a lessee's new farm equipment.

(C) Transition Rules

The conferees agreed to transition rules regarding the termination of the safe harbor leasing provisions of the Economic Recovery Tax Act of 1981. The general transition rule would allow safe harbor leasing for property placed in service before January 1, 1983, if between December 30, 1980 and July 2, 1982, the lessee acquired, commenced construction, or entered into a binding contract to acquire or construct the property. In addition, the conferees agreed to special transition rules for:

(1) Commercial passenger planes placed in service before January 1, 1984, if construction of a subassembly commenced or the stub wing join occurred between June 25, 1981, and February 20, 1982.

(2) Mass commuting vehicles placed in service before January 1, 1988. A later date is allowed for property subject to a binding contract before April 1, 1983, if a delay in the placed in service date is due to a strike or other circumstances not subject to the taxpayer's control.

(3) Automobile manufacturing property placed in service before October 1, 1983, if between January 1, 1981 and July 2, 1982, construction of the property commenced or binding contracts were entered into for the property or the property was placed in service before July 1, 1982, and leased before August 15, 1982.

(4) Certain turbines and boilers of cooperatives placed in service before July 1, 1983.

(D) Other Leasing Items

(1) The conferees agreed to allow safe harbor lease treatment for investment tax credit strip leases entered into before October 20, 1981.

(2) The conferees agreed to a provision preventing the I.R.S. from retroactively denying lease treatment for certain motor vehicle leases, including leases of trailers, by reason of the fact that those leases contain terminal rental adjustment clauses.

8. Foreign Oil and Gas

A. Limitation on amount of foreign oil and gas extraction taxes allowed as foreign tax credits

In order to determine the foreign tax credit under present law, foreign oil and gas extraction losses from one country do not offset extraction income from other countries. The foreign tax credit limitation is computed separately for oil-related income and all other foreign income. The conferees agreed to the Senate provision changing the extraction loss rule so that a net extraction loss from one country would offset extraction income from other countries for purposes of computing the amount of creditable oil and gas extraction taxes. The separate oil-related income limitation would be repealed, but credits would be disallowed to the extent that foreign countries impose abnormally higher taxes on oil-related nonextraction or other activities.

The provision would also provide transitional rules dealing with carrybacks and carryforwards of credits. The carryforward of taxes paid in previous years would be determined without applying the new provisions to pre-enactment years. In addition, for purposes of non-oil related losses recaptured by virtue of the elimination of the separate oil-related foreign tax credit basket, the recapture would be allocated over an 8-year period. The provisions relating to the foreign tax credit would apply to taxable years beginning after December 31, 1982.

B. Current taxation of foreign oil and gas non-extraction income

Under present law, income of foreign corporations is not subject to U.S. tax when earned. U.S. shareholders of a foreign corporation may be taxed on the income of the foreign corporation from tax haven and tax avoidance transactions. The conferees agreed that U.S. shareholders of foreign corporations would be subject to tax currently on the foreign oil and gas nonextraction income of the foreign corporations

from countries other than those in which oil and gas is extracted or consumed. Foreign oil nonextraction income includes processing, transportation, distribution and sales, and services, but only if the earner or provider or a related party is engaged in extraction. In addition, fuel is treated as consumed in the country in which pumped into the fuel tank of a ship or an aircraft.

The provisions relating to current taxation of oil and gas income of foreign subsidiary corporations apply to taxable years of foreign corporations beginning after December 31, 1982, and to taxable years of U.S. shareholders in which or with which such taxable years of foreign corporations end.

9. Possessions Corporations -- Under present law, certain U.S. corporations (possessions corporations) can qualify for an effective exemption from U.S. taxes on income from a possession, including Puerto Rico and the Virgin Islands. To qualify for this effective tax exemption the possessions corporation must derive at least 50 percent of its gross income from the active conduct of a trade or business within the U.S. possession. The conferees modified the Senate provision relating to this active business test. As approved by the conferees, the required percentage of active business income would be increased from 50 percent to 55 percent for taxable years beginning in 1983; 60 percent for taxable years beginning in 1984; and 65 percent thereafter.

The conferees agreed that, generally, income of a possessions corporation attributable to intangibles acquired from a related party would be taxable by the United States as in the Senate provision. However, the possessions corporation could elect to exclude certain income from intangible property through one of two options: (1) a cost sharing rule or (2) a 50/50 profit split. The election would be binding for the period of the Code section 936 election.

Under the first option, a possessions corporation which has a significant business presence in the possession would reflect income from manufacturing intangibles if the possessions corporation elects to make a cost sharing payment of a fraction of the worldwide product area research and development expenses of all the affiliates. The fraction which would be paid would be determined by the amount of possessions sales of the products in that product area to total sales of the affiliates in the product area.

The second option would provide for a 50/50 split of the combined taxable income (on a product-by-product basis) of the possessions corporation and its U.S. affiliates with respect to products produced in the possession. To qualify for this election, the possessions corporation would be required to have a significant business presence in the possession and manufacture or produce the product in the possession.

Under present law, certain transfers by a U.S. person to a foreign corporation that would otherwise obtain tax-free treatment are taxable unless the Internal Revenue Service issues a ruling that they do not have as one of their principal purposes the avoidance of Federal income tax. Under guidelines issued by the I.R.S., certain transfers of property for the active conduct of a trade or business abroad are ordinarily not taxable. The conferees agreed to treat a transfer of a possession-related intangible to a foreign corporation as a transfer pursuant to a plan having as one of its principal purposes the avoidance of Federal income tax, thereby making the transfer taxable.

10. Industrial Development Bonds -- The conferees agreed to the Senate industrial development bond provisions, with several modi-

fications. As under the Senate provision, a reporting requirement would apply to all private purpose tax-exempt bonds. All industrial development bonds could be issued only after a public hearing and approval of an elected official or a voter referendum. The reporting requirement would be effective for bonds issued after December 31, 1982; the public hearing and approval requirement would be effective for obligations issued after December 31, 1982, with a transitional exception for bonds issued solely to refund certain short-term obligations that were issued before July 1, 1982.

Capital cost recovery deductions for property financed with taxexempt bonds would be required to be taken on a straight-line basis over ACRS lives. Full ACRS deductions would still be allowed in the case of low-income rental housing, and certain other residential housing projects, municipal sewage or solid waste facilities, certain air and water pollution control facilities, and certain facilities with respect to which a UDAG grant is made.

A December 31, 1986, sunset would apply to small issue industrial development bonds. The small issue exemption would not apply if more than 25 percent of the proceeds of the issue are used to provide a facility the primary purpose of which is automobile sales or service, the provision of recreation or entertainment, or retail food and beverage services, or if any portion of the proceeds is used to provide certain recreational facilities, effective for issues after December 31, 1982.

The conferees agreed to allow tax-exempt bonds to be used for the following purposes: (1) gas distribution facilities in service areas consisting of no more than a city and a contiguous county; (2) local district heating and cooling facilities; (3) acquisition by a qualified regional pollution control authority of certain existing pollution control facilities; (4) advance refunding bonds for certain port authority obligations; and (5) ferries used in providing mass transportation services.

The conferees agreed that small issue composite bonds will generally be allowed and that wages and supplies eligible for the research and development credit would be excluded from capital expenditures included under the $10 million limitation for small issue bonds. The average term to maturity of all industrial development bonds would be limited to a period no greater than 120 percent of the average economic life of the assets financed by the bonds.

11. Mortgage Subsidy Bonds -The conferees agreed to the Senate provisions relating to mortgage subsidy bonds, with modifications. First, the purchase price limitation would be increased from 90 percent of the average purchase price (110 percent in targeted areas) to 110 percent of the average purchase price (120 percent in targeted areas). Second, up to 10 percent of lendable proceeds from mortgage subsidy bonds would be allowed for other than first-time homebuyers. Third, the present arbitrage limitation would be liberalized by increasing from 1 percent to 1-1/8 percent the allowable difference between the effective interest rate on mortgages and the yield on the bonds. Fourth, recent Treasury regulations regarding arbitrage on mortgage subsidy bonds would be specifically invalidated by the statute. Fifth, the present rule requiring liquidation of nonmortgage investments would be made inapplicable in certain cases where losses would arise.

The conferees also agreed to the multi-family housing bond provisions of H. R. 4717 as passed by the Senate. First, the meaning of "low income" would be defined as 80 percent of area median income. Second, the period that at least 20 percent of rental units financed with tax-exempt bonds must be set

aside for low-income tenants would be the greater of 10 years, half the term of the bonds, or the term of a housing subsidy contract, if any.

In addition, the conferees agreed to a provision clarifying that cooperative blanket mortgages are eligible for financing as single-family mortgage subsidy bonds. The targeted area requirement for bonds to finance cooperatives could be met by combining two or more separate issues.

12. Mergers and Acquisitions -- The conferees agreed to the Senate provision which modifies the tax treatment of partial liquidations, stock redemptions with appreciated property, and stock purchases which are treated as asset purchases. The following issues were left open: transition rules, certain technical amendments (including the application of Code section 338 to the acquisition of an insurance company), and amendments recommended by the Treasury Department and included in H.R. 6725, as reported by the Subcommittee on Select Revenue Measures of the Committee on Ways and Means.

The conferees agreed to several additional provisions with respect to the mergers and acquisitions provisions previously agreed upon by the conferees on August 4, 1982. First, the definition of an F reorganization would be limited to a change in identity, form, or place of organization of a single operating corporation. Second, new rules to prevent the bail-out of earnings and profits through the use of related corporations would be provided.

Third, trusts and estates would be permitted to waive family attribution rules in certain cases, thus achieving capital gain treatment in stock redemptions. Finally, additional transition rules would be provided with respect to partial liquidations, stock redemptions, and acquisitions in progress.

13. Completed Contract Method of Accounting -- The conferees agreed to the Senate provisions with respect to accounting for long-term contracts, these provisions revise the rules for determining which costs are currently deductible and which must be allocated to the contract for contracts entered into after December 31, 1982. The new rules are phased in for 1983 and 1984 taxable years. Exceptions are provided from the new allocation rules for contracts completed within 2 years, construction contracts to be completed within 3 years, or construction contracts where the taxpayer had average gross receipts of $25 million or less for the 3 prior years. Also, the Senate provisions include rules on termination, segregation, and aggregation of contracts.

14. Original Issue Discount Bonds -- The conferees agreed to the Senate provision which provides an accrual rule, which corresponds to actual accrual of interest, for determining the inclusion in income of and the deduction for original issue discount. The rule would apply to the bonds of all issuers other than natural persons. The rule would apply to bonds issued after July 1, 1982, (other than obligations pursuant to a written binding contract

entered into on or before that date).

15. Stripped Coupon Bonds -- The conferees agreed to the Senate provision which would require the seller of a stripped bond or stripped coupons, immediately before the disposition to allocate the basis of the bond (with coupons) among the bond and coupons in accordance with their values. The same original issue discount treatment applicable to a buyer of a stripped bond or stripped coupons would apply to the retained portions after a seller strips and disposes of either the corpus or coupons. Stripped bonds and stripped coupons in the hands of a purchaser would be treated as bonds issued at a discount. The discount is the excess of the

redemption price of the bond, or amount payable on maturity of the coupon, over the purchase price allocable to the bond or coupon. The purchaser would include the discount in income under the new original issue discount rules. The treatment of stripped bonds applies with respect to the purchase and sale of a stripped bond or stripped coupons after July 1, 1982.

16. Targeted Jobs Credit -- The conferees agreed to the Senate provision extending the targeted jobs credit, with certain modifications. The credit would be extended for 2 years and thus would be available with respect to any member of a targeted group who begins work on or before December 31, 1984. The present law rates and wage base for cooperative education students and present law requirement that these students be economically disadvantaged would be retained. Involuntarily terminated CETA employees would be eligible for the credit through December 31, 1982. The new summer youth targeted group would be effective May 1, 1983. A number of technical amendments were also approved, including permitting certifications on or before the day the individual begins work.

17. Accelerated Corporate Tax Payments -- The conferees agreed, with changes, to the Senate provisions increasing from 80 percent to 90 percent the amount of estimated tax payments required for all corporations. The penalty on underpayments of estimated tax that are between 80 percent and 90 percent of the actual tax due would be imposed at three-fourths of the full rate for underpayment provided such payments equal at least 80 percent of the actual tax due. The full amount of the unpaid tax would be due 2-1/2 months after the end of the taxable year. A new elective method of calculating estimated tax payments, based on annualized income, would be provided for taxpayers with an uneven seasonal income pattern. These provisions are effective for taxable years beginning after December 31, 1982.

18. Pensions

a. Limits on Contributions and Benefits: The conferees agreed to the Senate provisions placing limits on contributions to and benefits from tax-qualified pension plans. Contributions to a defined contribution plan would be reduced from $45,475 to $30,000. Annual benefits under a defined benefit pension plan would be reduced from $136,425 to $90,000. The cost-of-living adjustments for these dollar limits would be temporarily suspended. Beginning in 1986, the dollar limits would be adjusted for post-1984 cost-of-living increases (as measured by the index used to adjust social security benefits). The defined benefit plan dollar limit would be actuarially reduced if benefits commence before age 62. The aggregate limit for an individual who is a participant in both a defined contribution plan and a defined benefit plan of the same employer would be the lesser of 1.25, as applied only to the dollar limits, or 1.4 as under present law. These provisions apply to new pension plans not in existence on July 1, 1982, for plan years beginning after July 1, 1982. For pension plans in existence on July 1, 1982, the $30,000 and $90,000 limitations on deductions will apply in 1983, but amendments to plans would not be required for plan years beginning before 1984. Certain transition rules would be provided to ensure that benefits already earned under an existing plan are not reduced on account of the reduced limits.

b. Loans from Retirement Plans: The conferees agreed with modifications to the Senate provisions restricting loans from retirement plans. A general rule would provide that loans from a tax-qualified or governmental pension would be treated as a plan distribution. An exception to this rule would provide that a loan would not be treated as a distribution to the extent the loan does not exceed the lesser of $50,000 or 50 percent of the present value of the vested employee benefit, but not less than $10,000. This exception would only apply where the loan by its terms is to be repaid within 5 years. A loan used to acquire, construct or rehabilitate a dwelling unit used as a principal residence of the employee or a member of his family would not be subject to the 5-year repayment rule. These provisions would be effective with respect to loans made after August 13, 1982.

A special transition rule is provided for one year following the effective date exempting certain loans used to make a principal repayment on a loan outstanding before the effective date, to the extent that the qualifying loan is repaid by August 13, 1983.

c. Parity between Corporate and Noncorporate Pension Plans: The conferees agreed to several provisions affecting the qualification requirements and certain contribution limitations on tax-qualified pension plans, effective in 1984. The new rules would apply to all pension plans, both corporate and noncorporate. The conference agreement repeals certain H.R. 10 plan rules, and extends other rules to those plans (corporate or self-employed) which primarily benefit an employer's key employees ("top-heavy plans"). Generally, those pension plans that are not top-heavy would continue to operate under existing plan qualification standards with modifications. Those modifications relate to distributions made to the employee, or the employee's beneficiaries after death, and limitation of defined contribution plan integration to the statutory OASDI tax rate.

A top-heavy plan would be defined as a plan of the employer under which more than 60 percent of the accrued benefits (or contributions) are provided for key employees. A key employee would be defined as an officer, a 5-percent owner, a 1-percent owner with compensation in excess of $150,000 or the employees owning the 10 largest interests in the employer.

Special plan requirements for top-heavy plans include (1) rules limiting includible compensation ($200,000 adjusted for cost-of-living), (2) minimum vesting schedules, (3) a required minimum, non-integrated benefit for non-key employees, and, (4) in some cases, a reduced aggregate limit on contributions and benefits for key employees under more than one plan of an employer. The minimum integrated benefit required of a top-heavy plan would be 2 percent of pay (not to exceed 20 percent) in a defined benefit plan or 3 percent of pay in a defined contribution plan.

In order for a key employee under a top-heavy plan to exceed an aggregate limit of 1.0 (but not more than 1.25) on contributions and benefits, the employer would be required to provide an additional 1 percent minimum nonintegrated benefit in the defined benefit plan or an additional 1 percent minimum contribution to the defined contribution plan and also establish that no more than 90 percent of the accrued benefits and account balances under the plans would benefit the key employees. Top-heavy plans, like all other plans, would be limited to defined contribution integration at the statutory OASDI tax rate. Related rules would be provided to insure that an employer cannot avoid the top-heavy plans rules by establishing a plan under a one-man corporate shell or by leasing employees from another employer. The conferees agreed to repeal the rules of present law which set lower contribution and benefit limits for self-employed individuals. The H.R. 10 plan contribution limits would be increased from the lesser of 15 percent of earned income or $15,000 to the lesser of 20 percent of earned income or $30,000 effective in 1984.

c. Statutory Fringe Benefits: The conferees agreed to add a nondiscrimination standard to the exclusion from gross income under Code section 79 for employer-purchased group-term life insurance, beginning in 1984.

d. Estate Tax Exclusion for Certain Annuities: The conferees agreed to place a ceiling on the present law unlimited estate tax exclusion for annuities paid from qualified pension, stock-bonus or profit-sharing plans, tax-deferred annuities, IRAs and certain military retirement plans. The aggregate amount excluded from the gross estate of any decedent dying after December 31, 1982, would be $100,000.

19. Taxation of Life Insurance Companies and Annuities --

a. Modified coinsurance: The conferees agreed to the Senate provision repealing special elective tax treatment for

modified coinsurance (MODCO). Existing agreements will be treated as terminated as January 1, 1982. Reinsurers will be permitted to pay the tax attributable to termination treatment in equal installments over a 3-year period. In cases of conventional coinsurance involving reimbursement of the reinsured for payments of policyholder dividends, the policyholder dividends will be treated as those of the reinsured and not the reinsurer. Increases in reserves attributable to the restoration of reserves to a ceding company under the MODCO termination rules will not qualify for the special deduction for nonparticipating contracts. Interest deductions will be denied for debt obligations issued by ceding companies in reinsurance arrangements.

A transition rule is provided for certain life insurance company corporate restructuring involving liability reinsurance with a note that is paid off before 1983. A special election is provided under which certain reinsured companies may revoke the modified coinsurance election for contracts entered into in 1980 or 1981 with an unrelated reinsurer; the ceding company would report its income and compute its tax as if the MODCO agreement had not been in effect.

The conferees also agreed to provide I.R.S. authority to recharacterize items in connection with reinsurance arrangements to reflect source and character of taxable income. Finally, pre-1982 MODCO transactions will be grandfathered, except in the event of fraud.

b. Policyholder Dividends: The conferees agreed to the Senate provisions providing several changes in the treatment of policyholder dividends. For 1982-1983, the statutory deduction limit would be increased from $250,000 to $1 million (phased out for larger companies) and subject to affiliated group rules. During the two-year stop gap period, the percentage limitation on policyholder dividend deductions in the case of a mutual company would be 77-1/2 percent and 85 percent in the case of a stock company. One hundred percent of the dividends attributable to insured qualified pension plans would be allowed.

c. Life Insurance Reserves and Contract Liabilities: The conferees agreed to the Senate provision reducing on a permanent basis the present approximate revaluation formula for preliminary term reserves from $21 to $19 for business written after March 31, 1982. In computing reserves with respect to guaranteed interest contracts, during the two-year stopgap period interest guaranteed beyond the taxable year would not be taken into account to the extent it exceeds the interest rate assumed in computing statutory reserves, effective with respect to guarantees made after July 1, 1982, and before January 1 1984. In lieu of the original rule, a special rule would be provided to allow companies that did not derive a tax benefit from establishing pre-1982 reserves for such contracts to recompute their reserves effective January 1, 1982.

d. Group Pension Contracts: The conferees agreed to the Senate provision limiting the amount taken into account as the policy or contract liability for group pension contracts to the amount actually credited to the policyholder for purposes of determining the excludable policyholder share of investment yield. The limit would be effective for periods after December 31, 1982, and before January 1, 1984.

e. Life Insurance Company Status: The conferees agreed that for any taxable year ending before 1984, the life insurance company status for a taxpayer would not be changed as a result of treating reserves for contracts without permanent rate guarantees as not being insurance reserves.

f. Adjusted Life Insurance Reserves Formula: The conferees agreed to the Senate provision providing a geometric "Menge" formula to compute adjusted life insurance reserves the purposes of allocating investment yield to policyholders, effective for 1982-1983.

g. Bottom Line Consolidated Reporting: The conferees agreed to the Senate provision permitting a bottom-line method of consoli-

dating life insurance company taxable income for the 1982-1983 stopgap period and for any taxable year beginning before 1982 if the taxpayer filed a consolidated return claiming that method.

h. Deduction for excess interest: The conferees agreed to several Senate provisions relating to the deduction of excess interest credited by an insurance company with respect to certain deferred annuity contracts. A 100-percent deduction for qualified annuities would be permitted where the interest is guaranteed at a fixed rate or by formula for a period of not less than 12 months, and the contracts involve life contingencies. The amount of the deduction would be 100 percent of the total interest credited in the case of nonparticipating contracts. Taxpayers could elect to treat certain participating contracts as eligible contracts qualifying for an interest deduction equal to 100 percent of the assumed interest rate in the contract and 92-1/2 percent of the interest in excess of the assumed rate. Contracts in existence on August 13, 1982, that do not conform to the 12-month guarantee rule would not have to conform to the rule for monies held as of that date. Contracts entered into between August 14 and December 31, 1982, would qualify as eligible contracts for the taxable year if the contract is conformed to meet the 12-month requirement on the first contract anniversary date after December 31, 1982.

i. Amounts Received Under Annuity Contracts: The conferees agreed to several Senate provisions relating to the withdrawal of amounts from annuity contracts. Amounts received before the annuity starting date would be treated as withdrawals of income earned to the extent of such income. Any additional amounts withdrawn would be treated as a return of capital. Loans under the contract will be treated as amounts received under the contract. These provisions would apply with respect to investment in contracts after August 13, 1982. In addition, a 5-percent penalty would be imposed on the income amount received to the extent allocable to an investment made within 10 years of the distribution unless the contract holder first reached age 59-1/2. The penalty would not apply to distributions made on account of death or disabilty or with respect to income allocable to an investment before August 14, 1982. The penalty provision would apply only to distributions after 1982.

j. Flexible Premiums Contracts: The conferees agreed to the Senate provisions establishing guidelines for the purpose of determining whether the proceeds from certain flexible premium policies are excluded from gross income as life insurance. In addition, there would be provided an alternative cash value test. These provisions would apply to contracts entered into before January 1, 1984. For taxable years before 1982, amounts that could have been charged as a premium or mortality charge, but which were waived, will not be included in premium income with respect to certain indeterminate premium policies.

k. Underpayments of 1982 Estimated Taxes: The conferees agreed that the penalty imposed on underpayment of estimated taxes will not apply to underpayment periods ending before December 15, 1982, to the extent an underpayment results from enactment of this legislation.

20. Independent Contractors -- The conferees agreed to provide that licensed real estate agents and direct sellers will be treated as self-employed persons for Federal tax purposes. In addition, the moratorium and interim relief provisions of section 530 of the Revenue Act of 1978 would be extended indefinitely until such time as Congress acts in the future. The conferees did not include any safe-harbor test for classification of workers.

21. Reduction of Certain Employment Tax Liabilities Where Workers are Reclassified as Employees -- The conferees agreed to the Senate provision which affords taxpayers relief from employment tax liabilities in certain reclassification cases. Generally, an employer will be liable for an amount equal to

1.5 percent of wages (3.0 percent if no information returns were filed) if the employer erroneously treated the worker as a nonemployee for income tax purposes. If the employer erroneously treated the worker as a nonemployee for social security tax purposes, the employer will be liable for 20 percent of the worker's share of the FICA tax that should have been withheld (40 percent if no information returns were filed). These reduced liabilities do not apply if the employer treats a worker as a nonemployee with intentional disregard of the law.

22. Federal Unemployment Tax -- For a description of FUTA changes approved by the conferees, see item #5, Unemployment Compensation, under Spending Reductions.

23. Hospital Insurance Tax and Medicare Coverage of Federal Employees -- The conferees agreed to the Senate provision subjecting Federal employment to the hospital insurance portion of the FICA tax, effective January 1, 1983, and providing medicare hospital insurance eligibility on the basis of such employment. The conference agreement incorporates several changes relating to the definition of covered employment, entitlement based on disability, crediting of hospital insurance quarters of coverage, and a transitional provision enabling certain individuals, if necessary, to have their pre-January 1983 Federal employment considered for determining eligibility for medicare hospital insurance.

24. Airport and Airway Taxes -- The conferees agreed to the Senate provisions on airport and airway taxes, with several modifications. The aviation excise taxes will be reinstated at the following rates, effective September 1, 1982: an 8 percent passenger ticket tax; a 5 percent freight waybill tax; a $3 international departure tax; a 12 cent/gallon fuel tax on general aviation gasoline; a 14 cent/gallon fuel tax on jet fuel; and the present rate of tax on tires and tubes. These taxes would be extended for five years, until December 31, 1987, at which time the taxes will expire. Expenditures out of the Airport and Airway Trust Fund will be reauthorized through fiscal year 1987. The conferees agreed to provide a tax exemption only for certain helicopters engaged in timber and hard mineral resource operations and to include certain technical modifications to the ticket tax provisions (included in H. R. 4800, as reported by the Committee on Ways and Means on May 12, 1982).

25. Telephone Excise Tax -- Under present law, the telephone excise tax rate is 1 percent in calendar years 1982 through 1984. The tax terminates for bills rendered after 1984. The conferees agreed to modify the Senate provision and increase the tax to 3 percent for 1983 through 1985. The tax will terminate for bills rendered after 1985.

26. Cigarette Excise Taxes -- Under present law, a manufacturers excise tax equal to $4 per thousand (8 cents per pack) is imposed on small cigarettes. Generally, a tax equal to $8.40 per thousand is imposed on large cigarettes. The conferees agreed to the Senate provision temporarily doubling the cigarette excise tax. The increased excise tax rates would be effective for cigarettes removed from bonded premises after December 31, 1982, and before October 1, 1985. Also, a floor stocks tax equal to the excess of the new tax rates over the pre-1983 rates would be imposed on certain cigarettes held for sale on January 1, 1983.

27. Withholding on Interest and Dividends -- The conferees agreed to Senate provisions to impose withholding at 10 percent on interest and dividend payments after December 31, 1982, with technical modifications. In addition, the conferees agreed that the statement of managers on the conference would

contain guidance to the Treasury Department on the float (deposit rules) that would apply to these withheld taxes during a transition period of up to one year for large institutions and longer periods for smaller institutions. The conferees agreed to modify several aspects of the withholding on interest and dividends provision previously agreed upon by the conferees on August 9, 1982. First, the effective date for implementation of withholding on interest and dividends would be delayed 6 months to July 1, 1983. Second, the discretion granted to the Secretary of the Treasury under the Senate provision to further delay application of withholding to financial institutions unable to comply due to undue hardship would be limited to an additional delay of 6 months. Third, the conferees agreed to increase the exemption from withholding for minimal interest payments (determined on an annual basis) from $100 to $150.

28. Taxpayer Compliance:

Reporting on Interest -- The conferees agreed to the Senate provision which expands the definition of interest for purposes of information reporting, with technical changes.

Registration of Bonds -- The conferees agreed to the Senate provisions requiring the registration of most bonds under book entry systems, along with the exceptions provided in the Senate bill and the sanctions for failure to register. In addition, the conferees agreed to include holder sanctions denying a loss deduction and capital gains treatment in certain circumstances with other technical changes to the Senate provisions.

Broker Returns -- The conferees agreed to the Senate provision which reenacts and clarifies broker reporting, requires statements to customers, and requires regulations to be issued by the Treasury Department within 6 months.

Reporting of State and Local Tax Refunds -- The conferees agreed to the Senate provision which extends information reporting rules to State and local tax refunds, with an amendment deleting the Senate floor amendment which would have allowed statements to be furnished to taxpayers any time before February of the following year.

Penalties for Failure to File Information Returns -- The conferees agreed to the Senate provisions which increase the penalty for failure to file information returns from $10 to $50 and impose additional penalties for intentional disregard of the requirements.

Penalty for Failure to Supply Taxpayer Identification Number (TIN) -- The conferees agreed to the Senate provision which increases the penalty for failure to supply a TIN from $5 to $50, with two changes. This increase would not apply where the taxpayer fails to put the TIN on his own tax returns and the penalty for intentional disregard would be deleted.

Form of Returns -- The conferees agreed to the Senate provision permitting the Secretary to require that certain returns be filed in machine readable form.

Penalty for Promoting Abusive Tax Shelters -- The conferees agreed to the Senate provision which applies a 10 percent penalty on income derived from promoting or selling an abusive tax shelter, with two changes. Abusive tax shelters would include statements the person has reason to know are fraudulent and valuation errors in excess of 200 percent. The conferees also agreed to related rules to enjoin conduct subject to the promoter penalty and to establish procedures to coordinate the promoter penalty and other new penalty provisions.

Penalty for Aiding and Abetting Understatements of Tax -- The conferees agreed to the Senate provision which imposes a civil penalty on those persons who knowingly aid and abet in the preparation or presentation of fraudulent returns or documents in order to

understate the tax liability of another person, with two changes. The conferees agreed to increase the penalty for such documents used on a corporate return to $10,000 and to permit either this penalty or the return preparer penalty to be imposed.

Penalty for Frivolous Returns -- The conferees agreed to the Senate provision imposing a $500 penalty on frivolous returns, with a technical change to delete, as unnecessary, the exception for certain math errors.

Criminal Penalty for Certain Failures to Pay Estimated Tax -- The conferees agreed to the Senate provision which deletes the criminal penalty in cases where a civil penalty would not apply, with technical authority to redraft the substantive payment requirements, and to eliminate the declaration requirement.

Third Party Summonses -- The conferees agreed to the Senate provisions which change the procedures taxpayers must follow to stay compliance with a summons and require recordkeepers to proceed to compile documents, with a technical change.

Limitation on Use of Administrative Summons -- The conferees agreed to the Senate provisions which clarify the general use of administrative summons and provide that such summons may only be used before or after a Justice Department referral.

Withholding on Pensions, Annuities and Certain Deferred Income -- The conferees agreed to the Senate provisions imposing withholding on periodic pension payments using a wage-based system, flat rate withholding on other non-periodic distributions, and withholding based on 10-year averaging for total distributions, with several changes. The conferees agreed to adopt a one-time election procedure, with an annual notice of rights to elect in or out of withholding, on periodic payments. The conferees also agreed to allow notice of the withholding election to be provided within a short time prior to the first distribution. On total distributions, the conferees agreed to voluntary, rather than mandatory, withholding with notice not earlier than 6 months before the payment.

Pension Reporting and Recordkeeping Requirements -- The conferees agreed to the Senate provisions which revise the requirements on reporting of pension information to the taxpayer and the I.R.S. and which impose new recordkeeping requirements, with penalties for failures, on plans and others making pension payments.

Partial Rollovers of IRAs -- The conferees agreed to the Senate provision which allows tax-free rollover treatment for IRA distributions.

Foreign Transactions -- The conferees agreed to the Senate provisions on foreign transactions. These include: (1) a provision extending jurisdiction and summons power of the United States District Court for the District of Columbia to U.S. citizens not present in the United States; (2) a provision revising the penalty for failure to furnish information returns with respect to certain foreign corporations; (3) provisions to clarify and consolidate the reporting rules for foreign personal holding companies and to delay the filing date for certain other returns of foreign corporations and foreign trusts; and (4) a provision making a technical amendment to Code section 905(c).

Interest Provisions -- The conferees agreed to the Senate provisions requiring daily compounding of interest (with technical changes) and the semi-annual determination of interest rates. The conferees also agreed to the Senate provisions restricting the payment of interest on late returns, returns filed in non-processible form, and refunds due to carrybacks, with technical changes.

Disallowance of Certain Deductions -- The conferees agreed to the Senate provision denying deductions and credits with respect to the sale of illegal drugs.

Sense of Congress with Respect to I.R.S. Funds -- The conferees agreed to the Senate provision expressing the Sense of the Congress that funds be appropriated for the I.R.S. as proposed by the Administration for FY 1983 and that additional funds be appropriated in FY 1984 and 1985 as necessary to increase revenues, through additional enforcement, by an added amount of $1 billion in FY 1984 and $2 billion in FY 1985.

Report on Forms -- The conferees agreed to the Senate provision requiring a report to Congress by June 30, 1983, on improvement of the tax forms.

Penalty for Failure to File Certain Pension Reports -- The conferees agreed to increase from $10 to $25 per day with a maximum of $15,000 the penalty for failure to file certain pension reports.

Penalty for Failure to Furnish Information Return to Taxpayer -- The conferees agreed to increase from $10 to $50 per day with a maximum of $50,000 the penalty for failure to furnish an information return to a taxpayer.

Returns with Respect to Foreign-Owned U.S. Corporations -- The conferees agreed to impose reporting requirements on transactions between U.S. subsidiaries of foreign corporations and their foreign affiliates, with a penalty imposed for failure to comply.

Access to Foreign Books and Records -- The conferees agreed to include the provisions of section 146 of H.R. 6300 with modifications and technical amendments, to provide judicial review of formal document requests, and to delete a provision relating to the maintenance of books and records in the United States.

Treaty Benefits -- The conferees agreed to require the Secretary of the Treasury to publish new regulations within 2 years to insure that treaty benefits of reduced withholding tax are provided only to those so entitled.

Criminal Fines -- The conferees agreed to increase the maximum criminal fines, as recommended by the Department of Justice, for Internal Revenue Code sections 7201 (tax evasion), 7203 (failure to file), 7206 (criminal aid and abet), 7207 (false documents).

Fraud Penalty -- The conferees agreed to add an interest component to the fraud penalty.

Taxpayer Rights -- The conferees agreed to include certain taxpayer safeguard provisions: (1) increasing the amount of property exempt from levy; (2) requiring prompt release of liens; (3) requiring the last notice before seizure to be sent by registered mail; (4) extending the redemption period for real property; (5) reimbursing taxpayers for property wrongfully levied upon at fair market value; and (6) insuring that taxpayers are informed of their rights.

Jeopardy Assessments -- The conferees agreed to include the provisions of H.R. 6300 on jeopardy assessments where there is no known owner of large amounts of cash.

Estimated Tax Rules -- The conferees agreed to provide a safe harbor from the estimated tax penalty where an individual taxpayer had no tax liability in the prior year, to eliminate the present law declaration requirement and to provide an exemption from the daily compounding requirement.

Penalty for Substantial Understatements of Tax -- The conferees agreed to the Senate provision imposing a 10 percent penalty on a substantial underpayment of tax, defined as one which exceeds the greater of 10 percent of the amount required to be shown on the return or $5,000 ($10,000 for corporations other than subchapter S corporations or personal holding companies), with several modifications. The amount of any under-

statement is reduced by the amount of any item for which there is or was substantial authority for the taxpayer's position or where the item was adequately disclosed on the return. In the case of a tax shelter transaction, the taxpayer would also have to have a reasonable belief that the treatment was more likely than not the correct one and disclosure would not affect the penalty. Tax shelters are defined as transactions where the principal purpose is tax avoidance or evasion. The Secretary of Treasury may waive the penalty on a showing of reasonable basis and good faith. The conferees also agreed that this penalty would not apply to that portion of an understatement penalized under Code section 6659 for valuation errors.

Partnership Audits -- The conferees agreed to include the provisions of H.R. 6300, with technical and other minor modifications, establishing audit procedures at the partnership level and to permit, under regulations, application of similar principles to partnership returns under the windfall profits tax to permit a partnership to file the windfall profits tax return for its partners.

Treatment of Business Meal Expenses and Tip Income -- The conferees agreed to establish a tip reporting system. Under these provisions, large food and beverage establishments will file annual information returns showing gross food and beverage sales, employee reported tip income, aggregate charged receipts, and aggregate charge tips. In addition, if employees voluntarily report tips aggregating less than 8 percent of gross receipts, an allocation of the difference will be made among tipped employees, beginning after March 31, 1983, based on employer/employee agreements or other formula. A Treasury Department study of tip reporting is required by December 31, 1986. The Senate provision limiting the deduction for business meals was deleted.

Other Compliance Provisions -- The conferees agreed to modify the pension withholding provisions (previously adopted by the conferees on August 9, 1982) to allow the Secretary of the Treasury to delay the implementation of withholding for 6 months where an undue hardship would be imposed on institutions otherwise required to withhold on January 1, 1983. In addition, the conferees agreed to delay the penalties for withholding errors for 6 months. The conferees also agreed to the Senate provision imposing information reporting requirements on direct sales with a modification to require only names and addresses where sales are $5,000 or greater. With respect to the Senate provision to impose a new minimum penalty of $100 for failure to file returns, the conferees agreed to modify the provision to apply the penalty only where there is an underpayment of tax, and to limit the penalty to the lesser of the underpayment or $100. In addition, the conferees agreed to modify the backup withholding provisions to extend the grace period from 7 to 15 days.

29. Windfall Profit Tax TAPS Adjustment -- Under present law, the windfall profits tax base price of Sadlerochit oil is adjusted upward by the amount by which the Trans-Alaska Pipeline System (TAPS) tariff falls below $6.26. The conferees agreed to the Senate provision which repeals the TAPS adjustment for the windfall profits tax, effective for oil removed after December 31, 1982.

30. Windfall Profit Tax on Alaska Native Corporations -- Under present law, oil produced by native corporations organized under the Alaska Native Claims Act from lands received under the Act is exempt from the windfall profits tax prior to 1992. The conferees agreed to clarify the exemption to include wholly owned subsidiaries of Alaska Native Corporations, effective on the date of enactment.

31. Exclusion of National Research Service Awards -- The conferees agreed to the Senate provision extending the temporary exclusion from income for National Research Service Awards for two additional years (i.e., for awards made through 1983).

32. Amateur Athletic Organizations -- The conferees agreed with modifications to the Senate provision allowing tax-exempt status to amateur athletic organizations that conduct national or international competition in Olympic sports, or that support and develop amateur athletes for such competition, whether or not facilities or equipment are provided to members.

33. Payments to Foreign Government Officials or Employees -- Under present law, taxpayers may not deduct payments to foreign government officials or employees if those payments would be illegal under U.S. law (if U.S. law applied). The conferees agreed that payments to foreign government officials or employees which are otherwise deductible would not be disallowed on grounds of illegality under U.S. law, except that payments made illegal by the Foreign Corrupt Practices Act would not be deductible. This provision would apply to payments made after the date of enactment.

34. Annual Accrual Accounting Method -- The conferees agreed to the Senate provision permitting the use of the annual accrual method of accounting by "qualified partnerships" engaged in the business of growing sugarcane, effective for taxable years beginning after December 31, 1982. Under present law, only certain types of corporations may use this accounting method.

35. Retirement Savings for Church Employees -- The conferees agreed to the Senate provision revising the rules of present law relating to retirement savings programs maintained by churches for their employees under tax-sheltered annuity rules. The provision increases the ability of churches to provide retirement income for their employees by establishing minimum exclusion allowances, and by aggregating all years of service within a particular organization of a church or denomination as years of service with one employer. In addition to the catch-up elections permitted under the present law limit, a special election would be provided pursuant to which a church could make contributions in excess of the regular annual limit up to $10,000 per year subject to a $40,000 life-time maximum. The provision also provides that the tax rule relating to tax-sheltered annuity accounts generally applies to retirement income accounts maintained by a church for its employees. These changes apply to taxable years beginning after 1981. Retroactive amendments may be made to church plans to meet the requirements of the Internal Revenue Code with respect to tax qualified pension plans and tax-sheltered annuities.

36. State Judicial Retirement Plans -- The conferees agreed to the Senate provision under which participants in certain State judicial deferred compensation plans would not be required to include benefit accruals in gross income upon vesting. The provision covers ineligible deferred compensation plans so long as the plan is mandatory, requires the same percentage contribution by each judge, and each participant receives a benefit based on compensation paid to judges holding similar positions. Plans qualifying for inclusion within the scope of this provision must have been continuously in existence since December 31, 1978. The provision applies to taxable years beginning after December 31, 1978.

37. Profit Sharing Plans for Disabled Employees -- The conferees agreed to the Senate provision which would permit employers to continue deductible contributions to a profit-sharing or other defined contribution plan for an employee who is permanently and totally disabled. The provision would not apply to contributions on behalf of officers, owners and highly compensated individuals. The contributions would have to be nonforfeitable when made. The provision is effective with respect to taxable years beginning after 1981.

38. Group Trusts -- The conferees agreed to the Senate provision involving participation in group trusts by governmental plans, with a modification. As approved by the conferees, all governmental retirement plans would be permitted to participate in a tax-exempt group trust. The tax-exempt status of the group trust would not be affected because the trust accepts monies from

(a) a retirement plan of a State or local government, whether or not the plan is a qualified plan and whether or not the assets are held in trust, or (b) any State or local governmental monies intended to provide a retirement benefit under a governmental plan. The provision applies to taxable years beginning after December 31, 1981.

39. Attorneys' Fees -- The conferees agreed with changes to the House provision which awards reasonable attorneys' fees and other costs of litigation in civil tax cases where the government's position was unreasonable. The conferees agreed to the following modifications to the House provision:

(a) The award of attorneys' fees would be limited to $25,000.
(b) Only the taxpayer could recover costs for a third party incurred by that party on behalf of the taxpayer.
(c) If U.S. Tax Court proceedings have been brought by a taxpayer primarily for delay, or if the taxpayer's position in a case is frivolous or groundless, the Tax Court may award damages to the United States of up to $5,000.
(d) The effective date of this provision would be March 1, 1983.

This provision replaces a similar provision in the Equal Access to Justice Act which presently provides for the award of attorneys' fees in U.S. district courts and the U.S. Court of Claims.

The conferees agreed to clarify the sunset date for the attorneys' fees provision so that the provision would not apply to cases beginning after December 31, 1985.

40. Personal Holding Companies -- The conferees agreed to the House provision modifying the definition of a lending or finance business for purposes of the personal holding company tax. Effective for taxable years beginning after December 31, 1981, the business expense test is modified to require a lending or finance company to have qualifying business expenses equal to 15 percent of the first $500,000 of ordinary income, plus 5 percent of such ordinary income in excess of $500,000. In addition, effective for taxable years beginning after December 31, 1980, the 60-month loan maturity limitation is increased to 144 months, and the definition of lending or finance business is amended to include the business of making loans in indefinite maturity credit transactions.

41. Additional Refunds Relating to the Repeal of the Excise Tax on Buses -- The conferees agreed to the House provision affording, under certain conditions, additional refunds of the 10 percent manufacturers excise tax on buses sold to ultimate purchasers after April 19, 1977, and before November 10, 1978. The provision extends the date before which the ultimate purchasers must have been reimbursed from September 5, 1979, to January 1, 1983. In addition, manufacturers would be permitted to make reimbursement at the same time the refund is received from the Treasury.

42. Veterans Organizations -- The conferees agreed with a modification to the Senate provision which eliminates the requirement that in order for a veterans organization to qualify for tax-exempt status, 75 percent of its members must be war veterans, and substitutes a requirement that 75 percent of its members are past or present members of the U.S. Armed Forces (whether or not war veterans). Tax-exempt status also would be accorded to veterans' associations founded before 1880, 75 percent of the members of which are past or present members of the U.S. Armed Forces, and the primary purpose of which is to provide insurance and other benefits to veterans and their dependents. beginning after December 31, 1985.

43. Disclosure of Tax Return Information for Nontax Criminal Investigation and Civil Damages for Unauthorized Disclosure -- The conferees agreed to the Senate provisions revising the rules for the disclosure of tax return information in nontax

criminal investigations and the rules on civil damages for unauthorized disclosure. These provisions are identical to those approved in H.R. 6475 on June 9, 1982, by the Committee on Ways and Means.

Disclosure of Returns and Return Information to the General Accounting Office -- The conferees agreed to the Senate provision revising the rules which govern access by the General Accounting Office to returns and return information for use in certain audits.

44. Debt Management -- The conferees agreed to the Senate provision which allows the Secretary of the Treasury, with the approval of the President, to fix the investment yield on any U.S. savings bond. The Secretary would also be authorized to provide for increases and decreases on the yield of any U.S. savings bond. This will allow the Treasury Department to offer savings bonds with interest rates that are competitive with yields of other securities with comparable maturities. The conferees also agreed to the Senate provision which increases from $70 billion to $110 billion the amount of long-term bonds that may be issued with interest rates in excess of the statutory limit of 4-1/4 percent. All bonds issued under this increased authority would have to be issued in registered form. These provisions will become effective on the date of enactment. These provisions are similar to those approved in H.R. 6595 which was favorably reported by the Committee on Ways and Means on June 16, 1982.

45. Relief for the Jefferson County Mental Health Center -- The conferees agreed to the Senate provision authorizing the payment of $50,000 to the Jefferson County Mental Health Center in Lakewood, Colorado, in full settlement of its claims against the United States for repayment of the $74,128 the Center refunded to its employees for individual social security contributions after the Internal Revenue Service erroneously advised the Center that the contributions had been incorrectly withheld.

46. New Jersey General Revenue Sharing Allocation -- The conferees agreed to the Senate provision which deems that the New Jersey franchise and gross receipts taxes are local taxes for the purpose of allocating revenue sharing funds for the quarterly period beginning on October 1, 1982 (and for later periods if the State amends the statute to provide for local retention and collection).

IV. ADDITIONAL WEEKS OF UNEMPLOYMENT COMPENSATION

1. Taxation of Unemployment Compensation Benefits -- The conferees agreed to reduce the income thresholds limiting the inclusion of unemployment benefits in adjusted gross income for Federal income tax purposes from $20,000 to $12,000 for single taxpayers and from $25,000 and $18,000 for married taxpayers filing jointly. This change applies to unemployment benefits paid on or after January 1, 1982.

2. Additional Weeks of Unemployment Benefits -- The conferees agreed to provide additional weeks of unemployment compensation benefits to unemployed workers. Effective September 12, 1982, through March 31, 1983, up to 10 additional weeks of unemployment compensation benefits would be provided in States in which extended benefits (EB) are being paid or have been paid at any time since June 1, 1982. Up to 8 additional weeks of benefits would be provided in States in which the extended benefit trigger rate (i.e., the percentage of workers who are collecting State unemployment benefits) equals or exceeds 3.5 percent. Up to 6 additional weeks of benefits would be provided in all other States.

The additional benefits would be paid to unemployed workers whose entitlement to State benefits (i.e., benefit year) or extended benefits ended on or after June 1, 1982; and:

a) who have exhausted all State, or State and extended benefits to which they are entitled;

b) who have worked 20 or more weeks (or had the equivalent in wages as specified in the extended benefit program) prior to applying for State unemployment compensation); and,

c) who continue to meet all other State and extended benefit requirements.

Benefit and administrative costs of the program would be financed out of Federal general revenues.

REVENUE AND COST SAVINGS IMPACT

The conference agreement succeeded in reducing total outlays by $17.2 billion over the period from fiscal year 1983 - 1985. The combined reconciliation instruction to the Committees on Ways and Means and Energy and Commerce was a total of $15.969 billion. (See Table 1)

In addition to this impact, the conferees agreed to provide a program of Federal Supplemental Benefits and to lower the unemployment compensation tax thresholds. By the end of 1985, these two provisions net out to a total reduction in the budget deficit of $203 million. (See Table 2)

The aggregate revenue effect of H.R. 4961 as approved by the conferees for fiscal year 1983-1985 is estimated to be $98.5 billion. It must be emphasized that this estimate is preliminary and may be changed in the official conference report.

Table 1

RECONCILIATION INSTRUCTION

(In Millions)

	FY 83	FY 84	FY 85	Total
Senate Finance	4,429	5,564	5,976	15,969
Ways & Means	3,755	4,827	5,168	13,750
Medicare	3,162	4,122	4,240	11,524
Medicaid	674	737	808	2,219
Public Assistance	593	705	928	2,226

Conference Agreement*
(Preliminary Estimates)

Total Savings	3,695	5,958	7,865	17,518
Medicare	2,879	4,430	5,998	13,307
Medicaid	275	364	502	1,141
AFDC	85	157	163	405
CSE	92	141	151	384
SSI	116	126	144	386
UC	-81	49	49	17
Debt Management	329	691	858	1,878

* This table does not reflect the additional food stamp outlays of $184 million and additional medicaid outlays of $111 million resulting from two medicare provisions over the three-year period. Thus the total net outlay savings are $17,233 million. The table reflects the savings to each of the programs identified. The minus sign (-) for 1983 in unemployment compensation represents additional outlays.

TABLE 2

Estimated Number of Additional Weeks of Unemployment Benefits Payable in Each State Under the Conference Agreement (Based on Projected State Insured Unemployment Rates)

State	Maximum number of additional weeks projected to be payable to unemployed workers*	
	First Quarter FY '83**	Second Quarter FY '83**
Alabama	10	10
Alaska	10	10
Arizona	10	10
Arkansas	10	10
California	10	10
Colorado	6	6
Connecticut	6	8(6)
Delaware	10	10
Dist. of Columbia	6	8
Florida	6	6
Georgia	6	8
Hawaii	8	8
Idaho	10	10
Illinois	10	10
Indiana	10	10
Iowa	10	10
Kansas	10	10
Kentucky	10	10
Louisiana	10	10
Maine	10	10
Maryland	10	10
Massachusetts	10	10
Michigan	10	10
Minnesota	10	10
Mississippi	10	10
Missouri	10	10
Montana	10	10
Nebraska	6	8
Nevada	10	10
New Hampshire	6	6
New Jersey	10	10
New Mexico	10	10
New York	8	8
North Carolina	10	10
North Dakota	8(6)	8
Ohio	10	10
Oklahoma	6	6
Oregon	10	10
Pennsylvania	10	10
Puerto Rico	10	10
Rhode Island	10	10
South Carolina	10	10
South Dakota	6	6
Tennessee	10	10
Texas	6	6
Utah	10	10
Vermont	10	10
Virginia	6	6
Virgin Islands	10	10
Washington	10	10

West Virginia	10	10
Wisconsin	10	10
Wyoming	6	8(6)

SUMMARY: 10 weeks payable in 38 states — 10 weeks payable in 38 states
8 weeks payable in 2 states — 8 weeks payable in 8 states
6 weeks payable in 13 states — 6 weeks payable in 7 states

* No individual worker can receive more than 10 additional weeks of benefits.

** Except for New Mexico, it is certain that the states shown receiving 10 weeks will do so because extended benefits are either currently payable in the state or have been at some time since June 1, 1982. It is estimated by both the Department of Labor and the Congressional Budget Office that New Mexico will soon trigger onto extended benefits and, therefore, qualify for 10 additional weeks of benefits. For states indicated as receiving 8 or 6 weeks, this is an estimate based upon projected unemployment rates. The numbers above are based upon Department of Labor and CBO projections. In the three instances where CBO and the Department of Labor projections disagree, the number of weeks from the Department of Labor are indicated in parentheses.

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